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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,507	12/26/2000	Gary J. Dennis	BS99-202	9792

28970 7590 04/13/2004

SHAW PITTMAN  
IP GROUP  
1650 TYSONS BOULEVARD  
SUITE 1300  
MCLEAN, VA 22102

EXAMINER

DIXON, THOMAS A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/746,507

Applicant(s)

DENNIS ET AL.

Examiner

Thomas A. Dixon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19, 22 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 20, 21, 23 and 24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4.5</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment / Arguments*

1. Claims 20-21 and 23-24 have been cancelled.
2. IDS paper #4, submitted 5/29/01 is blank, but has been considered; paper #5 has been considered but all references are to voice recognition and are not relevant to the claims at issue, but have been considered.
3. As per Claims 1-10, 22, 25.

Claims Directed to an Apparatus must be distinguished from the prior art in terms of structure rather than function, *In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959).

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (bd Pat. App. & Inter. 1987). Thus the structural limitations of claim 1, including a computer, a communications network are disclosed in Rutkowski et al as described herein. Also as described the limitations of the claim do not distinguish the claimed apparatus from the prior art.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Claim Objections***

5. Claims 1, 11 are objected to because of the following informalities:

The phrase "wherein the customer account information includes..." carries no weight if the "one of ... status and profile information...payments" path is taken.

the automatic display of a list based on customer type is seen to be non-functional descriptive material and has no patentable weight, and as the laptop computers of Rutkowski are known to have displays anything can be displayed as a trivial matter.

***Claim Rejections - 35 USC § 103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102/103 that form the basis for the rejections under this section made in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1-4, 7-13 16-19, 22, 25 are rejected under 35 U.S.C. 103(a) as being anticipated by Rutkowski et al (5,826,270) in view of obviousness or Ulrich et al (5,583,937).

As per Claims 1 and 11.

Rutkowski et al ('270) discloses:

a dispatch division for receiving information related to a problem experienced by a customer, see figure 3 (50) and for deploying a technician requested by the customer in response to the information, wherein the technician is employed by a company which provides service to the customer, see column 7, lines 11-37;

a computer accessible by the technician to initiate a communication with the company via a communications network when the technician receives a request from the customer for a transaction different from the problem, see column 1, lines 19-59, column 5, lines 57-61, column 9, lines 9-26, column 12, lines 26-59 and column 14, lines 25-43;

wherein the company, in response to the communication from the technician uses the information related to the customer to generate a customer request and communicates the customer's request to the company using the communications network, see figure 1 (305, 345), column 5, lines 54-64, column 12, lines 26-59 and column 14, lines 25-43.

Rutkowski et al ('270) does not specifically disclose a list of products, services or features displayed automatically, based the type of customer, on the technician's computer.

Rutkowski's disclosed databases, see figure 6, contain data regarding customers, their current level of service, recent pay-per-view purchases and current promotional items. Rutkowski does not limit technicians in requests for data or display of data, but does not explicitly disclose display of the promotion. The technician's request for information could return the data related to current promotion, which is seen to be a list of products that are available to the customer. It would have been obvious to one of ordinary skill at the time the invention was made to display a list of services on the technician's laptop computer simply as a reply to a request for the benefit of taking advantage of impulse purchases by customers.

Alternately, Ulrich et al ('937) teaches a computer generated menu of products available to subscribers, see column 4, line 51 – column 5, line 14, automatic display, column 3, lines 62-65 and further blockage of ordering and parental controls which is seen to be equivalent to applicant's customer type, column 6, lines 31-54 for the benefit of offering nearly on-demand programming to take advantage of impulse purchases.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the invention of Rutowski et al ('270), if necessary, to display a list of products available automatically based on the customer type as taught by Ulrich to take advantage of impulse purchases.

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As per Claims 2, 9, 10, and 18-19.

Rutkowski et al ('270) further discloses the company receives the request and automatically processes the request and modifies the customer's account, see column 5, lines 54-64.

As per Claims 3 and 12.

Rutkowski et al ('270) further discloses the communications network is wireless, see column 9, line 49 – column 10, line 6.

As per Claims 4 and 13.

Rutkowski et al ('270) further discloses the communications network is a wire line, see column 9, line 65 – column 10, line 6.

As per Claims 7 and 16.

Rutkowski et al ('270) further discloses the transaction includes the sale of a service, see column 9, lines 9-23.

As per Claims 8 and 17.

Rutkowski et al ('270) further discloses the transaction includes the sale of a product, see column 9, lines 9-23.

As per Claims 22, 25.

Rutkowski et al ('270) further discloses the use of an Automatic Number Indicator interface which automatically generates information, see column 3, lines 62-65.

7. Claims 5-7, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutkowski et al (5,826,270) in view of Peters et al (5,696,906) and FieldCentrix....

As per Claim 5.

Rutkowski et al ('270) further discloses the system may convert the message into a format readable by other devices, see column 9, lines 27-36.

Rutkowski et al ('270) does not specifically disclose email sent to the technician's supervisor.

Peters et al ('906) discloses enabling ancillary services such as email services in a cable television system, see abstract and FieldCentrix teaches sending email to the Sales department for the benefit of providing an integrated computer system for account management.

The limitation of sending to the Supervisor is seen to be non-functional descriptive material which will not distinguish the invention from the prior art in terms of patentability, see In re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 101 (Fed. Cir. 1983).

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Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to email a message to the Sales department as taught by Peters et al ('906) and FieldCentrix or to any other recipient in the invention of Rutowski et al ('270) to produce an integrated computer system for account management.

As per Claims 6-7 and 14-15.

Rutkowski et al ('270) further discloses the system may convert the message into a format readable by other devices, see column 9, lines 27-36.

Rutkowski et al ('270) does not specifically disclose email.

Peters et al ('906) discloses enabling ancillary services such as email services in a cable television system, see abstract and FieldCentrix teaches sending email to the Sales department for the benefit of providing an integrated computer system for account management.

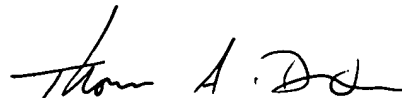
Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to email a message as taught by Peters et al ('906) and FieldCentrix in the invention of Rutowski et al ('270) to produce an integrated computer system for account management.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas A. Dixon  
Examiner  
Art Unit 3629

April 9, 2004